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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,219	12/01/2003	Glen R. George	AGC01 P-300	2131

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EXAMINER
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CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/725,219

Applicant(s)

GEORGE, GLEN R.

Examiner

Chapman E. Jeanette

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 is/are allowed.
- 6) ☒ Claim(s) 10-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/5/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: patent copy with annotations.

The final office action mailed 5/17/05 has been vacated and replaced with the non-final office action submitted herewith.

The indicated allowability of claims 10-20 is withdrawn in view of the newly discovered reference(s) to Gefroh et al (5107640) and Gefroh (5657587). Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10, 15-16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Gefroh '587 and '640. See annotated/marked up copy of figure 1 of the '587 patent.

Both references teach modular well comprising:

1. a vertical wall 12 having spaced first and second end portions
2. each end portion includes connecting structure
3. a central portion spaced from and bounded by the end portions of the vertical wall 12
4. first and second horizontally spaced apart extension wall members 2 extending from the end portions
5. each extension member having first and second side edge portions connected/secured to the first and second end portions

6. the second side edge of the extension members that is horizontally spaced from first side edge portion and includes connecting structure 14
7. Figure 10 of Gefroh et al '640 discloses a vertical wall member with a U-shape in plan view; the central portion of the vertical wall includes a transversely extending portion forming a step; the transversely extending portion 32 includes spaced apart upper and lower walls defining a gap between. Again see figure 10
8. Gefroh '640 also teaches an opening through the vertical wall member adjacent the step to form a handle 28 or 33/29. See Figure 11

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-14, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gefroh '587 or '640 in view of Kemp (4704828). Gefroh shows the end portions of the vertical wall members having a cross-sectional shape that is substantially the same as the first and second wall members but lacks the horizontal channels on the vertical wall and aligned with those on the extension wall members to provide stiffness. Kemp discloses a modular window well with a vertical wall and side extension wall with aligned channels ribs providing stiffness. It would have been obvious to one of ordinary skill in the art to modify Gefroh to include the horizontal channels providing stiffness to

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strengthen the structure. The rib or channels defines an outer surface and includes a cavity capable of receiving a screw.

The connecting structures of the vertical wall members and the extension wall members comprise flanges having an opening except for that on the second side edge of the extension wall members which include openings. It would have been obvious to one of ordinary skill in the art to include an opening or openings as both are taught by the Gefroh '587; more openings would provide for a stronger more secure attachment.

Gefroh '640 also teaches an opening through the vertical wall member adjacent the step to form a handle 28 or 33/29. See Figure 11. The opening does not extend through the upper wall but such a limitation lacks criticality in that the handle of Gefroh is formed without this extension of the opening. It is unclear has this limitation significantly effects the overall structure, function and operation of the well of the instant invention. One of ordinary skill in the art would have appreciated forming the handle of any known means which does not upset the integrity of the window well but provides fort he structure of the handle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E. Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Monday through Thursday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Jeannette E. Chapman  
Primary Examiner

